



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2022-0111; FF09E22000 FXES11130900000 201]

RIN 1018-BG87

Endangered and Threatened Updating Entries for Two Species on and Removing Johnson’s Seagrass from the Lists of Endangered and Threatened Wildlife and Plants

Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973 (Act), as amended, are amending the List of Endangered and Threatened Plants by removing Johnson’s seagrass (*Halophila johnsonii*). We are also amending the List of Endangered and Threatened Wildlife by updating the entries for the Arctic subspecies of the ringed seal (*Pusa hispida hispida*) and the Beringia distinct population segment (DPS) of the Pacific bearded seal subspecies (*Erignathus barbatus nauticus*) to reflect the final designation of critical habitat for this subspecies and DPS, respectively. These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. *Applicability date:* The Johnson’s seagrass delisting was effective May 16, 2022. The Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal critical habitat designations were both effective May 2, 2022.

FOR FURTHER INFORMATION CONTACT: Rachel London, Acting Chief, Branch of Delisting and Foreign Species, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; 703–358–2491; or Caitlin Snyder, Chief, Branch of Domestic Listing, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; 703–358–2171. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act (16 U.S.C. 1531 et seq.) and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine taxa specified in this rule. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as an endangered or a threatened species. Under section 4(a)(2)(B) of the Act, if NMFS determines that a species should be removed from the Lists of Endangered and Threatened Wildlife and Plants (delisted), or that a species' status should be changed from an endangered to a threatened species, then NMFS is required to recommend the status change to the Service. NMFS makes these determinations via its rulemaking process. If the Service concurs with the recommended status change, then the Service will implement the status change by publishing a final rule to amend the Lists of Endangered and Threatened Wildlife and Plants (List or Lists) in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11(h) and 17.12(h).

On December 23, 2021, NMFS published a proposed rule (86 FR 72908) to remove Johnson's seagrass from the Federal List of Endangered and Threatened Plants. NMFS solicited public comments on the proposed rule through February 22, 2022. On April 14,

2022, NMFS published a final rule (87 FR 22137) to remove Johnson's seagrass from the Federal List of Endangered and Threatened Plants.

The delisting of Johnson's seagrass was effective May 16, 2022. In the April 14, 2022, final rule (87 FR 22137), NMFS addressed all public comments received in response to the proposed rule. In a June 10, 2022, letter (Letter from Gary Frazer to Kimberly Damon-Randall, June 10, 2022), per section 4(a)(2)(B), we concurred with NMFS's recommendation that the Johnson's seagrass should be removed from the List of Endangered and Threatened Plants. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.12(h).

We are also updating the entries on the List of Endangered and Threatened Wildlife for the Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal to reflect the final designation of critical habitat for this subspecies and DPS, respectively. On January 8, 2021, NMFS published a revised proposed rule (86 FR 1452) to designate critical habitat for the Arctic subspecies of the ringed seal, published a proposed rule (86 FR 1433) to designate critical habitat for the Beringia DPS of the bearded seal, and solicited public comments on both proposed rules through March 9, 2021 (86 FR 1452, January 8, 2021; 86 FR 1433, January 8, 2021). NMFS also solicited public comments at three public hearings for both proposed rules (see 86 FR 7686; February 1, 2021). In response to requests, NMFS extended the public comment period for both proposed rules through April 8, 2021 (see 86 FR 13517, March 9, 2021; 86 FR 13518, March 9, 2021). NMFS addressed all public comments received in response to both proposed rules, and on April 1, 2022, published a final rule (87 FR 19232) designating critical habitat for the Arctic subspecies of the ringed seal and a final rule (87 FR 19180) designating critical habitat for the Beringia DPS of the bearded seal. The Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal critical habitat designations were both effective May 2, 2022. By publishing this final

rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h).

Administrative Procedure Act

Because NMFS provided an opportunity for public comment on the proposed rule to delist Johnson's seagrass, and we concurred with the NMFS action, we find good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. Because NMFS provided an opportunity for public comment on the proposed rules to designate critical habitat for the Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal, we find good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS final rule to delist Johnson's seagrass (87 FR 22137; April 14, 2022) removed protection under the Act for this species, removed the species from the table at 50 CFR 223.102(e), and removed its critical habitat designation at 50 CFR 226.213. The April 1, 2022, NMFS critical habitat final rules (87 FR 19232 and 87 FR 19180) extended protection under the Act for the Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal, and amended 50 CFR parts 223 and 226 to designate critical habitat for the Arctic subspecies of the ringed seal and the Beringia DPS of the bearded seal. This rule is an administrative action to remove one species from the List at 50 CFR 17.12(h) and update two species' entries on the List at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the *Federal Register* on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the CFR, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 1531-1544; and 4201-4245, unless otherwise noted.

2. In § 17.11, amend paragraph (h) by revising the entries for “Seal, bearded [Beringia DPS]” and “Seal, ringed (Arctic subspecies)” under MAMMALS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS * * * * *				
Seal, bearded [Beringia DPS]	<i>Erignathus barbatus nauticus</i>	Beringia DPS - see 50 CFR 223.102	T	77 FR 76740, 12/28/2012; ^N 79 FR 42687, 7/23/2014; 50 CFR 226.229. ^{CH}
* * * * *				
Seal, ringed (Arctic subspecies)	<i>Phoca (=Pusa) hispida hispida</i>	Wherever found	T	77 FR 76706, 12/28/2012; ^N 79 FR 42687, 7/23/2014; 50 CFR 226.228. ^{CH}
* * * * *				

§ 17.12 [Amended]

3. In §17.12, amend paragraph (h) by removing the entry for “*Halophila johnsonii*” under FLOWERING PLANTS from the List of Endangered and Threatened Plants.

Martha Williams,
Director,
U.S. Fish and Wildlife Service.

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